

AMENDMENTS

In The Claims

B1
27. (amended) The peptide mimic according to claim 26, wherein the peptide mimic is coupled to complement protein C3d.

REMARKS

Applicants have amended claim 27 to correct a typographical error. As the Examiner pointed out, claim 27 as filed depended from claim 27. Applicants have amended claim 27 to depend from claim 26. This amendment does not add new matter.

The Restriction Requirement

The Examiner states that restriction of the application into twelve inventions is required under 35 U.S.C. § 121. Applicants traverse in part.

The Examiner states that “[c]laims 1 and 3-15 are considered as linking claims and would be joined with one of inventions 1-8, if elected.” Applicants provisionally elect invention 1, which includes claims 2 and 16. Thus claims 1-16 are provisionally elected for examination. Applicants believe, however, that the claims of inventions 9-12, as defined by the Examiner, share common elements with claims 1-16 such that they may all be combined into one group for purposes of examination in the instant application.

The Manual of Patent Examining Procedure (MPEP) states that there are two criteria for a proper requirement of restriction between patentably distinct inventions. The first is that the inventions must be independent or distinct as claimed. The second is that there must be a serious burden on the Examiner if restriction is not required. The MPEP further states that “[i]f the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to distinct or independent inventions” MPEP § 803 (emphasis added).

Provisionally elected claims 1-16 of the instant application are directed to peptide mimics of a conserved gonococcal epitope not found on human blood group antigens, and compositions comprising the same. As discussed in detail below, the claims of inventions 9-12, as defined by the Examiner, share the common novel element of peptide mimics recited in the claims of invention 1 and the linking claims (*i.e.*, claims 1-16).

The claims of invention 9, defined by the Examiner to include claims 24 and 25, are directed to methods of immunizing a mammal wherein the peptide mimics of claims 1-3 or 11-14 are administered. The claims of invention 9 should not be separated from the claims of invention 1 because the invention 9 claims include certain of the peptide mimics of the invention 1 claims. That is, claims 24 and 25 include as the common point of novelty the peptide mimics of claims 1-3 and 11-14, which, *inter alia*, applicants have provisionally elected herein. A search for the peptide mimics of claims 1-3 and 11-14 alone would necessarily be co-extensive with a search for the methods

employing the peptide mimics of claims 24 and 25, and would therefore not impose a serious burden on the Examiner.

The claims of invention 10, defined by the Examiner to include claims 26, 27 and 29, are directed to the peptide mimics of claims 1 or 11 coupled to complement (claim 26 and amended claim 27) and a composition comprising the same (claim 29). The claims of invention 10 should not be separated from the claims of invention 1 because the invention 10 claims include certain of the peptide mimics of the invention 1 claims. That is, claim 26, amended claim 27 and claim 29 each include as the common point of novelty the peptide mimics of claims 1 and 11, which, *inter alia*, applicants have provisionally elected herein. A search for the peptide mimics of claims 1 and 11 alone would necessarily be co-extensive with a search for the peptide mimics and compositions of claim 26, amended claim 27 and claim 29, and would therefore not impose a serious burden on the Examiner.

The claim of invention 11, defined by the Examiner to include claim 28, is directed to a method of immunizing a mammal wherein the peptide mimic of claim 27 is administered. The claim of invention 11 should not be separated from the claims of invention 1 because the invention 11 claim includes certain of the peptide mimics of the invention 1 claims. That is, claim 28 includes as the common point of novelty the peptide mimics of claims 1 and 11 (claim 27, as amended, is directed to these peptide mimics), which, *inter alia*, applicants have provisionally elected herein. A search for the peptide mimics of claims 1 and 11 alone would necessarily be co-extensive with a search

for the peptide mimics employed in the method of claim 28, and would therefore not impose a serious burden on the Examiner.

The claims of invention 12, defined by the Examiner to include claims 30 and 31, are directed to methods of increasing the antigenicity of the peptide mimics of claims 1 or 11. The claims of invention 12 should not be separated from the claims of invention 1 because the invention 12 claims include certain of the peptide mimics of the invention 1 claims. That is, claims 30 and 31 include as the common point of novelty the peptide mimics of claims 1 and 11, which, *inter alia*, applicants have provisionally elected herein. A search for the peptide mimics of claims 1 and 11 alone would necessarily be co-extensive with a search for the peptide mimics employed in the methods of claims 30 and 31, and would therefore not impose a serious burden on the Examiner.

Conclusion

Applicants believe that inventions 1 and 9-12 as defined by the Examiner (representing claims 1-16 and 24-31) should be considered together because there is no search burden for the Examiner to examine the subject matter of these inventions together. If the Examiner does not agree with this proposal, pursuant to 37 C.F.R. § 1.143, applicants provisionally elect, with traverse, claims 2 and 16 of invention 1, together with linking claims 1 and 3-15. Such a provisional election would thus include claims 1-16 for initial substantive examination. This provisional election is made expressly without waiver of applicants' rights to continue to prosecute and to obtain

claims to the non-elected subject matter either in this application or in other applications claiming benefit herefrom.

Based on the above remarks, applicants request that the Examiner withdraw her restriction of claims 1-16 and claims 24-31 into five groups and allow claims 1-16 and 24-31 to issue.

Respectfully submitted,



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Amended Claim

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